



PATENT APPLICATION
CS8336
LeA 35,861

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF)
DOROTHEE HOISCHEN ET AL) ART UNIT: 4131
SERIAL NO.: 10/506,644) EXAMINER: KORTNEY L. KLINKEL
FILED: FEBRUARY 11, 2005) CONFIRMATION NO.: 4956
TITLE: SUBSTITUTED ARYL KETONES)

COMMUNICATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Office Action dated March 11, 2008. A petition for extension of time and fee by way of authorization to charge Deposit Account No. 50-2510 accompanies this Amendment, bringing a response to be due on or before September 11, 2008.

In response to the Office Action, Applicants hereby elect with traverse, Group I, Claims 18-21, 42 and 48 directed to compounds of the Formula I and a process for preparing pesticide comprising Formula (I).

With regard to the election of species requirement, Applicants hereby elect Compound 2 appearing on Table I on page 78 of the specification.

EXPRESS MAIL NO.: EB312822055US

I hereby certify that this paper or fee is being deposited with the United States Postal "Express Mail Post Office to Addressee" service under 37CFR1.10 on the date indicated above and is addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Date of Deposit: September 10, 2008


Pam Ramsey

Traverse:

First, Applicants respectfully assert that all claims involving Formula I should at least remain in this case as follows:

Claims 18-21 directed to the compounds

Claims 22-26 process for making the compound

Claim 42 directed to a pesticide

Claim 45 method for controlling pests

Claim 48 process of preparation of a pesticide

These represent related technologies (all related to Formula I) and allowing all claims to issue in the same case does not present an undue burden for examination by the Examiner.

Second, with regard to allowing all of these claims to remain in the same case, not just those directed to Formula I, applicants point out to the Examiner that there is unity of invention and that there is in fact a common technical feature that is common to all of the claims in this case. That is the aryl-substituent comprising A1-A2-N(R1)-A3-R2, and therein especially the linker A1-A2-N(R1)-A3.

This technical feature is not disclosed in the prior art.

Van Almsick et al (US 6,376,429) discloses substituted arylketones comprising an aryl-substituent in which L is a C1-C6-alkylene chain. According to Claim 1 of the '429 Patent, the alkylene chain "is optionally substituted by one or more identical or different radicals R_{2n}."

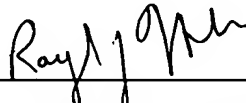
The linker comprising A1-A2-N(R1)-A3 is identical for claims 18-21, 27, 29, 30, 33 (compound claims), 22-26, 31, 32, 43-41 (process claims), i.e. for all Groups I – VIII.

The same applies for groups IX-XI which refer to compounds of general formulas (I), (II), and (VIII) all comprising the linker A1-A2-N(R1)-A3.

Therefore, with respect to the restriction requirement it should be appreciated that the characteristic structural element, and A1-A2 Group constitutes unity of the invention.

Applicant therefore respectfully request that the restriction requirement be withdrawn and that all claims should be permitted to remain in this one application to conserve and make the most efficient use of the Patent Office's time in examination of this application where unity of invention across the claims is so clearly demonstrated.

Respectfully submitted,

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